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Attorneys for Defendant and Third-Party Plaintiff,  
 WESTCHESTER SURPLUS LINES INSURANCE COMPANY

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

SIERRA BAY CONTRACTORS, INC., a  
 California Corporation,

Plaintiff,

vs.

WESTCHESTER SURPLUS LINES  
 INSURANCE COMPANY, a Georgia  
 Corporation, and ROES 1 through 50, inclusive,

Defendants.

AND RELATED THIRD-PARTY CLAIMS

CASE NO. 3:10-CV-04611-RS

**STIPULATION AND ~~PROPOSED~~  
 ORDER FOR DISMISSAL OF THIRD-  
 PARTY DEFENDANT ASPEN SPECIALTY  
 INSURANCE COMPANY**

Pursuant to F.R.C.P. 41, Third-Party Defendant Aspen Specialty Insurance Company  
 ("Aspen") and Third-Party Claimant Westchester Surplus Lines Insurance Company ("Westchester")  
 have agreed and hereby stipulate to the dismissal of Aspen from this action, without prejudice,  
 subject to said parties' mutual waiver of costs. Said parties request the Court's approval and  
 execution of the below proposed order for dismissal.

1 IT IS SO STIPULATED.

2  
3 Dated: October 10, 2011

LAW OFFICES OF SAMUEL F. BARNUM

4  
5 By: 

6 Samuel F. Barnum

7 Counsel for Third-Party Defendant  
8 ASPEN SPECIALTY INSURANCE COMPANY

9 Dated: October 10, 2011

MORALES FIERRO & REEVES, LLP,

10  
11 By: 

12 David A. Astengo

13 Counsel for Third-Party Defendant  
14 WESTCHESTER SURPLUS LINES  
15 INSURANCE COMPANY

16 **[PROPOSED] ORDER OF PARTIAL DISMISSAL**

17 Having reviewed the above stipulation, the Court orders that Third-Party Claimant  
18 Westchester Surplus Lines Insurance Company's claims against Third-Party Defendant Aspen  
19 Specialty Insurance Company be dismissed, without prejudice. The remainder of the third-party  
20 complaint shall not be changed or impacted by this Order.

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22  
23 

24 United States District Court  
25 District of Northern California